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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/019,550	03/29/2002	David Deleam	15675P387	8696

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EXAMINER

WOZNIAK, JAMES S

ART UNIT PAPER NUMBER

2626

DATE MAILED: 05/11/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/019,550

Applicant(s)

DELEAM ET AL.

Examiner

James S. Wozniak

Art Unit

2655

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 29 March 2002.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-11 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-3 is/are rejected.
- 7) ☒ Claim(s) 4-11 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 29 March 2002 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____

DETAILED ACTION

Claim Objections

1. **Claims 1-11** are objected to because of the following informalities:

In claim 1, line 1, “the decoding and playback” should be changed to --decoding and playback-- in order to provide proper antecedent basis.

In claim 1, lines 3-4, “”said buffer memory” should be changed to --a buffer memory-- in order to provide proper antecedent basis.

In claim 1, lines 4-5, “”the inlet or the outlet of the decoding block” should be changed to --an inlet or outlet of a decoding block-- in order to provide proper antecedent basis.

In claim 1, line 6, “the filling level” should be changed to --a filling level-- in order to provide proper antecedent basis.

Appropriate correction is required.

2. **Claims 4-11** are objected to under 37 CFR 1.75(c) as being in improper form because a multiple dependent claim should refer to other claims *in the alternative only*, and *cannot depend from any other multiple dependent claim*. See MPEP § 608.01(n). Accordingly, claims 4-11 have not been further treated on the merits.

3. **Claims 3** is objected to under 37 CFR 1.75(c), as being of improper dependent form for failing to further limit the subject matter of a previous claim. Applicant is required to cancel the

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claim(s), or amend the claim(s) to place the claim(s) in proper dependent form, or rewrite the claim(s) in independent form.

According to MPEP 608.01 (n), "Infringement Test" for dependent claims, the test for a proper dependent claim is whether the dependent claim includes every limitation of the parent claim. Claim 3 recites first and second filling thresholds that are equivalent, while Claim 2, the parent claim, requires the ability to eliminate non-active voice frames when a filling level lies between the first and second thresholds. The invention of claim 3 would not be able to perform the frame elimination required by claim 2 because a buffer filling level could not fall between the first and second thresholds as required by claim 2 since the thresholds are equivalent in claim 3. Thus, the dependent claim does not include every limitation of the parent claim and is therefore considered to be an improper dependent claim.

Claim Rejections - 35 USC § 102

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

5. **Claims 1-2** are rejected under 35 U.S.C. 102(b) as being anticipated by Shlomot et al (*U.S. Patent: 5,699,481*).

With respect to **Claim 1**, Shlomot discloses:

A method of managing the decoding and playback of a sound signal in an asynchronous transmission system (*buffer management in an asynchronous coded speech packet transmission system, Col. 4, Lines 16-36*), in which method any overabundance of the filling of a buffer memory and/or of a second buffer memory at the inlet or outlet of the decoding block is detected by comparing the filling level with a least one threshold (*buffer at a decoder input, Fig. 1b, having various filling threshold levels (S, N, F), Col. 6, Lines 14-56*), the method characterized in that depending on the value of the filling level:

Voice activity detection is implemented and frames considered by said detection as being non-active are eliminated (*deletion of silence frames detected using a voice activity threshold in response to a slow buffer condition, Col. 6, Line 13- Col. 7, Line 23*); and

Concatenation processing is implemented on pairs of successive frames (*concatenating silence frames in response to a fast buffer condition, Col. 7, Lines 24-61*).

With respect to **Claim 2**, Shlomot discloses:

Voice activity detection is implemented and frames considered by said detection as being not active are eliminated whenever the filling level lies between a first threshold and a second threshold, and in that concatenation processing is implemented on two successive frames whenever the filling level lies between a second threshold and a third threshold (*deleting silence frames between slow and normal buffer levels and performing concatenation processing between normal and fast buffer levels, Col. 6, Lines 13- Col. 7, Line 23*).

Claim Rejections - 35 USC § 103

6. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

7. **Claim 3** is rejected under 35 U.S.C. 103(a) as being unpatentable over Shlomot et al in view of Hatono et al (*U.S. Patent: 5,914,936*).

With respect to **Claim 3**, Shlomot teaches the buffer management method utilizing multiple threshold levels for determining whether to perform silence frame deletion or concatenation processing, as applied to claim 1. Shlomot does not specifically suggest that the first and second buffer thresholds are equal, however, Hatono discloses first and second buffer overflow thresholds that are equivalent (*Col. 3, Lines 29-37; and Col. 13, Lines 55-57*).

Shlomot and Hatono are analogous art because they are from a similar field of endeavor in buffer management in an asynchronous transfer system. Thus, it would have been obvious to a person of ordinary skill in the art, at the time of invention, to modify the teachings of Shlomot with the equivalent buffer thresholds taught by Hatono in order to provide adaptive flow control, in an ATM network, having an additional configuration for determining a congestion amount (*Hatono, Col. 3, Lines 9-15; and Col. 4, Lines 45-48*).

Conclusion

8. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure:

Kondo et al (*U.S. Patent: 4,993,022*)- teaches the concept of deleting buffer frames that will not degrade speech quality.

Bharucha et al (*U.S. Patent: 6,324,174*)- teaches a means for marking silence frames for deletion during a queue overload in an output buffer.

9. Any inquiry concerning this communication or earlier communications from the examiner should be directed to James S. Wozniak whose telephone number is (571) 272-7632. The examiner can normally be reached on M-Th, 7:30-5:00, F, 7:30-4, Off Alternate Fridays.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, David Hudspeth can be reached at (571) 272-7843. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

James S. Wozniak
4/11/2006


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